

13 CR 28 (ENV)

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BROOKLYN OFFICE

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(S)

June 30, 2017

U.S. District Judge Eric Vitaliano
Eastern District of New York
225 Cadman Plaza
Brooklyn, NY

Dear Judge Vitaliano,

I am a member of the public and a reporter for Newsday covering the case of U.S. v Doe, 13CR28. I am writing to oppose the proposed closure of a bail hearing scheduled for today.

As you know, there is a presumption of press and public access to court proceedings under both our Constitution and the common law. The presumption applies to bail hearings. They can only be closed if a judge finds a compelling government interest in keeping them secret and excluding the public. Any closure must be narrowly tailored.

As you know, I have written twice before (Docket 20, 29) to oppose closure of a sentencing hearing and seek unsealing of the docket entries in this case. I rely here on the same arguments for transparency made in those letters, and wish to add the following:

First, as I have suggested before, the narrow tailoring requirement suggests you consider whether any legitimate government interest in secrecy can be protected by conducting the hearing in public without using the name or other identifying information about the defendant. The government has no legitimate interest in keeping secret from the public the generic basis for arguing that an unsentenced terrorist is not a flight risk or a danger, and the conditions protecting the public under which he may be released.

Second, this proceeding could result in the secret release of a terrorist while shielding the name and the conditions from both the court record and the normal process of newsgathering. The public would therefore be disabled from protecting itself if this person applies for a job or rents a room. This exposure of the public to increased risk through court-enforced ignorance should be balanced against any claimed government interest in secrecy.

Thank you for your attention.

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